

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CHARLES J. ANDERSON,) Case No. CV 15-0077-R (JPR)
Petitioner,)
) ORDER ACCEPTING FINDINGS AND
v.) RECOMMENDATIONS OF U.S.
) MAGISTRATE JUDGE
E. VALENZUELA, Warden,)
Respondent.)

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file, and Report and Recommendation of U.S. Magistrate Judge. On October 28, 2015, Petitioner filed objections to the R&R. He objects to several conclusions of the Magistrate Judge that ultimately have no bearing on the result she reached because despite finding the Petition procedurally barred on several bases, she addressed the merits of his claim and found that it failed. As the Magistrate Judge explained, there is no question that Petitioner was properly subject to sentencing under the Three Strikes law; the sentencing judge's brief misstatement of the facts concerning Petitioner's most recent convictions does not undermine the lawfulness of his sentence, especially given the judge's repeated statements to the effect that Petitioner deserved Three Strikes sentencing. (See R&R at 15-16.)

1 Petitioner argues that the sentencing judge believed he
 2 deserved Three Strikes sentencing because of his mistaken
 3 impression of the facts (see Objections at 4-5), but the record
 4 is clear that that is not so. In sentencing Petitioner the trial
 5 judge expressly relied on his lengthy prior criminal history (see
 6 Pet., Exs., "Reporter's Transcripts (RT), case no. BA096051" tab,
 7 Rep.'s Tr. at 24), and thus the judge's apparent mistaken belief
 8 that Petitioner was recently convicted of four felony strike
 9 crimes based on two separate incidents an hour apart, one
 10 involving one victim and the other three victims – when in fact
 11 he was convicted of four felony strike crimes based on one
 12 incident – could have had little bearing on the sentence he
 13 imposed.¹

14 Having reviewed de novo those portions of the R&R to which
 15 Petitioner objected, the Court accepts the findings and
 16 recommendations of the Magistrate Judge.

17 IT THEREFORE IS ORDERED that the Petition is denied as
 18 untimely and Judgment be entered dismissing this action with
 19 prejudice.

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 21 DATED: January 12, 2016


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 MANUEL L. REAL
 U.S. DISTRICT JUDGE

¹Petitioner was originally charged with robbing one victim and then four others later that night, but as to the first incident he pleaded guilty to receiving stolen property. (Pet., Exs., "Plea Transcript (PT), case no. BA044825" tab, Rep.'s Tr. at 2, 7-8.) Thus, the judge was not mistaken that Petitioner was involved in two separate criminal events in one evening.